

Serial No.: 10/537,041

REMARKS

Status Summary

Claims 1-4, 7-11, 13, 14, and 16-18 are pending in the present application. Claims 1-4, 7-11, 13, 14, and 16-18 presently stand rejected. Claims 4 and 14 are canceled, and claims 1, 7, and 18 are amended by the present amendment. No new matter has been introduced by the present amendments. Reconsideration of the application as amended and based on the remarks set forth hereinbelow is respectfully requested.

Claim Rejection - 35 U.S.C. § 103

Claims 1-3 and 14 stand rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,841,775 to Pare, hereinafter referred to as "Pare". In addition, claims 1-4, 7, 11, 13, 14, and 16-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,457,900 to Bond, hereinafter referred to as "Bond", in view of U.S. Patent No. 6,439,801 to Galiana et al., hereinafter referred to as "Galiana". Finally, claims 8-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bond in view of Galiana, and further in view of U.S. Patent No. 5,509,753 to Thompson, hereinafter referred to as "Thompson". The positions of the Examiner with respect to claims 1-4, 7-11, 13, 14, and 16-18 are respectfully traversed as described below.

With regard to independent claim 1, the Examiner contends that Pare discloses a device as is recited in claim 1 except that Pare does not disclose using a

Serial No.: 10/537,041

lane modifying device in a race track. The Examiner further contends, however, that it would have been obvious to use the lane shifting device of Pare in a race track setting. It is respectfully submitted, however, that the traffic lane markers of Pare are clearly not suitable for use in a race track. As is commonly known, racing cars on a race track move at very high speeds and require corresponding safety measures to keep the race track as safe as possible. The traffic lane divider disclosed in Pare includes a stud or short spindle **17**, on which a coil spring **16** with a plastic traffic lane device **14** is placed. It is respectfully submitted that this traffic lane divider cannot be run over by a racing car. If run over by a racing car (which cannot be excluded in some racing situations), the plastic top would be ripped off of stud **17**, leaving stud **17** exposed and thus posing a danger to the following racing cars. Accordingly, a person skilled in the art would not have contemplated using the traffic line divider of Pare for a racing course.

In contrast, the curb elements of claim 1 are sturdy and can be driven over by racing cars. To further emphasize this feature of the claimed curb elements, claim 1 has been amended to recite that the curb elements are double T-elements having a double T-section in the cross section, and the curb elements comprise an upper side which is provided with a track topping. Support for these amendments can be found in the patent application as originally filed, for example at page 8, second paragraph, and in original claim 4. It is respectfully submitted that there is no disclosure in Pare that would have prompted a person skilled in the art to employ this combination of

Serial No.: 10/537,041

features, and thus the subject matter of claim 1 is not obvious in view of the disclosure of Pare and it is respectfully requested that the rejection be withdrawn.

In addition, the Examiner further contends that claim 1 is also rejected as obvious over Bond in view of Galiana. With regard to this rejection, it is respectfully submitted that the disclosure of Bond is fundamentally different from what is recited in claim 1. Specifically, claim 1 recites a device for modifying the layer of vehicle track comprising an arrangement of curb elements. As is commonly known, a curb is a location where a relatively raised portion (or road shoulder) meets a relatively unraised portion of a paved street. A curb thus provides the lateral boundary of a street and is not arranged across a street.

In contrast, Bond discloses speed bumps whose purpose is to slow down vehicles passing over those bumps. This is accomplished by a speed-sensitive lock mechanism that locks when the vehicle travels at a speed above a predetermined speed. On the other hand, when the vehicle travels below that speed, the lock mechanism does not lock and the plates can be depressed so that the bump no longer poses an obstacle. As a result, the speed bump device disclosed in Bond is not a curb element since it is placed across the street and not lining the street. Moreover, such a speed bump device would not be used in a vehicle racing course, as its very purpose is to slow down vehicles, whereas in a vehicle racing course the conditions are always optimized for allowing the vehicles to achieve high speeds. In fact, the speed bump device would not be used in a racing course because it would pose a high danger to vehicles traveling across it at such high speeds.

In addition, as noted above, claim 1 has been amended to recite double T-elements, which are neither disclosed nor suggested by Bond. Accordingly, it is respectfully submitted that claim 1 is not obvious in view of the disclosure of Bond.

With regard to the rejection of claims 7 and 18 by the Examiner, it is respectfully submitted that the forgoing arguments that Bond does not disclose curb elements and that the device of Bond is not suitable for a racing course apply equally to these claims. In addition, claims 7 and 18 have been amended to recite that the curb elements are vertically liftable. Support for these amendments can be found in the patent application as originally filed, for example in Figures 4 and 5, and at page 9, first paragraph. In contrast, the plate elements of Bond are not vertically liftable. Rather, these plate elements are swiveled around an axis. Furthermore, Bond also fails to disclose a device or method that is suitable for modifying the layout of a vehicle racing course. Instead, the device of Bond merely creates an obstacle on the street. Regardless of the state in which the speed bump device is in, the layout of the course remains the same.

Further, it is respectfully submitted that the addition of Galiana and/or Thompson does not remedy these deficiencies of Bond. Specifically, Galiana describes a stationary protective barrier that can be used near a road or racetrack, and Thompson describes a motorized retractable speed bump. Neither of these references disclose, teach, or suggest devices having curb elements that are double T-elements having a double T-section in the cross section or that are vertically liftable.

Serial No.: 10/537,041

As a result, for at least the reasons stated above, it is respectfully submitted that both Pare and Bond, taken either alone or in combination with Galiana or Thompson, fail to teach or suggest every element of the devices and methods of independent claims 1, 7, and 18. Accordingly, it is respectfully requested that the rejection of claims 1, 7, and 18 under 35 U.S.C. § 103(a) be withdrawn and the claims allowed at this time. In addition, claims 2 and 3 depend upon claim 1, and claims 8-11, 13, 16, and 17 depend upon claim 7. Accordingly, it is respectfully submitted that the above remarks apply equally to these claims, and therefore the rejections of these claims should likewise be withdrawn and the claims allowed at this time.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

Serial No.: 10/537,041

DEPOSIT ACCOUNT

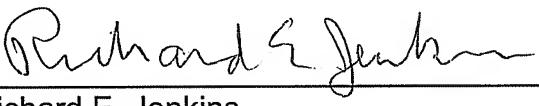
The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: March 25, 2009

By:


Richard E. Jenkins
Registration No. 28,428

1406/275

REJ/BJA/gwc

Customer No: 25297